



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,996	08/22/2001	Guy Riddle	004683.P005	1547

7590 04/04/2005  
Michael J. Mallie  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
Seventh Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025-1026

EXAMINER

MEW, KEVIN D

ART UNIT	PAPER NUMBER
----------	--------------

2664

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/935,996

Applicant(s)

RIDDLE, GUY

Examiner

Kevin Mew

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. §133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Detailed Action***

***Drawings***

1. The drawings are objected to because Figs. 3, 4 and 5 lack descriptive legends while Fig. 6 does not show the arrow direction for those “N” labels off the decision blocks located on the left side of the drawing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Appropriate corrections are required.

### *Specification*

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

In particular, the abstract of the instant application is objected to because of the use of phrase which can be implied, such as "a method is disclosed" in line 1 of the abstract.

### *Claim Objections*

3. Claim 5 is objected to because of the following informalities:

In lines 4-5 of the claim, the term "the network computer" should be replaced with "the server computer" instead.

Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Schuster et al. (USP 6,512,761).

Regarding claim 1, Schuster discloses a method comprising measuring gaps between data consecutive packets of an ordered packet stream which have one or more other packets therebetween received via a network connection in order (comparing the differences between network transmission delays for packets in a sequence, see col. 5, lines 35-38) and calculating a network delay in the connection that is attributed to the network (packet delay variance may be measured by comparing these differences, see col. 5, lines 35-38).

Regarding claim 2, Schuster discloses the method of claim 1 further comprising: monitoring the network connection at a network device (jitter buffer of the receiving end monitors the inter-packet time spacing, see col. 6, lines 1-7); receiving a first packet at the network device; receiving a second packet at the network device (a sequence of packets are received at the receiving end, see col. 6, lines 46-64); and

determining whether the measured gap is greater than a predetermined value corresponding to round trip network delay for the connection (the transmission delay is determined to see if it exceeds a predetermined threshold level, see col. 13, lines 44-50).

Regarding claim 3, Schuster discloses the method of claim 2 further comprising:  
calculating a gap value (network transmission delay, see col. 8, lines 1-7); and  
calculating a new network delay value based upon the gap value (a jitter buffer delay is calculated based on the difference between the network transmission delay and the predetermined end-to-end delay period, see col. 8, lines 1-7).

Regarding claim 4, Schuster discloses the method of claim 3 further comprising reporting the new network delay value (the receiving end may communicate its buffer delay to the transmitting end, see col. 8, lines 1-17).

Regarding claim 5, Schuster discloses a network comprising:  
a client computer (a transmitter, see Fig. 2);  
a server computer (a receiver, see Fig. 2);  
and a network device (a device at the receiving end, see col. 8, lines 20-31) coupled to the client computer and the server computer (jitter buffer decoder is coupled to the transmitted and the receiver, see Fig. 2), the network device to determine the network delay of a connection between the client computer and server computer based upon gap measurements between a plurality of packets received at the network device from the client computer and

server computer (the receiving device is comparing the differences between network transmission delays for packets in a sequence, see col. 8, lines 32-45).

Regarding claim 6, Schuster discloses the network of claim 5 wherein the network device comprises:

- a packet shaper (jitter buffer decoder, see Fig. 2); and
- a measurement engine (a receiving device includes a processor at the receiving end for measuring the buffer delay period, see col. 8, lines 20-45).

Regarding claim 7, Schuster discloses the network of claim 6 wherein the packet shaper comprises a timer that measures the time gap between each of the plurality of packets received at the packet shaper from the client computer and server computer (determine a network transmission delay for the incoming packet, based on the receiver time for the packet, see col. 8, lines 32-45).

Regarding claim 8, Schuster discloses the network of claim 6 wherein the measurement engine calculates updated network delays based upon a predetermined round trip network delay for the connection and calculated gap values (compute a buffer delay period for the incoming packet, based on at least in part on a difference between a predetermined end-to-end transmission delay and the network transmission delay, see col. 8, lines 32-45).

Regarding claim 9, Schuster discloses the network of claim 5 further comprising:

a classification engine (transmission delay is classified to determine whether it exceeds or is less than a predetermined threshold level, col. 13, lines 44-50);

a response time block (release packet for play-out upon expiration of the buffer delay period, see col. 8, lines 20-42); and

management control (identify receiver time for the incoming packet, determine network transmission delay and compute a buffer delay period, see col. 8, lines 33-42).

Regarding claim 10, Schuster discloses the network of claim 9 further comprising:

an embedded database (see col. 11, lines 35-43); and

a user interface (output, see element 22, Fig. 2).

Regarding claim 11, Schuster discloses a network device configured to determine the network delay of a network connection based upon gap measurements between a plurality of packets received at the network device (receiving end comparing the differences between network transmission delays for packets in a sequence, see col. 5, lines 35-50).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure with respect to the method of measuring network delay using gap time.

US Patent 6,807,159 to Shorey et al.

US Patent 6,769,029 to Seki et al.

US Patent 6,445,681 to Pogrebinsky

US Patent 5,815,667 to Chien et al.

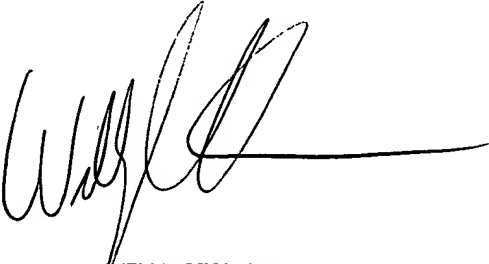
US Publication 2003/0016630 to Vega-Garcia et al.



6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Mew whose telephone number is 571-272-3141. The examiner can normally be reached on 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**WELLINGTON CHIN**  
**SUPERVISORY PATENT EXAMINER**